

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of

Atty. Docket

ADOLF PROIDL

AT 000053

Confirmation No. 7510

Serial No. 09/954,654

Group Art Unit: 2151

Filed: SEPTEMBER 18, 2001

Examiner: TANG, KAREN C.

Title: INTERNET RECEIVING ARRANGEMENT HAVING QUALITY TEST MEANS

Mail Stop Appeal Brief-Patents
Board of Patent Appeals and Interferences
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Sir:

Appellant herewith respectfully presents a Brief on Appeal as follows, having filed a Notice of Appeal on August 2, 2007:

REAL PARTY IN INTEREST

The real party in interest in this appeal is the assignee of record Koninklijke Philips Electronics N.V., a corporation of The Netherlands having an office and a place of business at Groenewoudseweg 1, Eindhoven, Netherlands 5621 BA.

RELATED APPEALS AND INTERFERENCES

Appellant and the undersigned attorney are not aware of any other appeals or interferences which will directly affect or be directly affected by or having a bearing on the Board's decision in the pending appeal.

STATUS OF CLAIMS

Claims 1-20 are pending in this application. Claims 1-2 are rejected in the Final Office Action mailed May 2, 2007. This rejection was upheld, in an Advisory Action that mailed June 26, 2007. Claims 1-20 are the subject of this appeal.

STATUS OF AMENDMENTS

Appellant filed on June 11, 2007 an after final amendment in response to a Final Office Action dated June 11, 2007. The after final amendment includes amendments to claim 14. In an Advisory Action mailed on June 26, 2007, it is indicated that the after final amendment filed on June 11, 2007 is entered. This Appeal Brief is in response to the Final Office Action mailed May 2, 2007, that finally rejected claims 1-20, which remain finally rejected in the Advisory Action mailed on June 26, 2007.

SUMMARY OF THE CLAIMED SUBJECT MATTER

The present invention, for example, as recited in independent claims 1 and 11, is directed to an internet receiving arrangement, such as including an internet radio 1 shown in FIG 1 and described on page 4, lines 6-10 of the specification, where the internet receiving arrangement receives information data from information servers 3, 4, 5 that are connected to the internet. The internet receiving arrangement comprises an address retrieval device 7 described on page 5, lines 6-12 of the specification.

The address retrieval device 7 is configured to selectively retrieve collective address information from an address server 6 shown in FIG 1. The address retrieval device 7 is operatively connected to the address server only through the internet where an activation information device is employed to determine if address information is retrieved.

As shown in FIG 1, and described on page 6, lines 4-26, the internet receiving arrangement further includes an information retrieval device 12 configured to retrieve information data from the information servers 3, 4, 5 that are identified by the

retrieved collective address information. The collective address information identifies those information servers from which information data is to be retrieved.

A quality test device 15 is also provided, as shown in FIG 1 and described on page 6, lines 26-31. The quality test device 15 is arranged to test the information data retrieved and received by the information retrieval device 12. The quality test device 15 is further arranged to supply the activation information to the address retrieval device 7 if the quality of the received information data is below a quality threshold value.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1 and 11 of U.S. Patent Application Serial No. 10/556,246 are unpatentable under 35 U.S.C. §102(e) as allegedly anticipated by U.S. Patent Application Publication No. 2002/0059592 (Kiraly).

Appellant respectfully requests the Board to address the patentability of independent claims 1 and 11, and further claims 2-10 and 12-20 as depending from independent claims 1 and 11, based on the requirements of independent claims 1 and 11. This position is provided for the specific and stated purpose of simplifying the current issues on appeal. However, Appellant herein specifically reserves the right to argue and address the patentability of claims 2-10 and 12-20 at a later date should the separately patentable subject matter of claims 2-10 and 12-20 later become an issue. Accordingly, this limitation of the subject matter presented for appeal herein, specifically limited to discussions of the patentability of independent claims 1 and 11 is not intended as a waiver of Appellant's right to argue the patentability of the further claims and claim elements at that later time.

ARGUMENT

Claims 1 and 11 are said to be unpatentable over Kiraly.

Kiraly is directed to an Internet radio, where forward and past buffers are provided to store data packets to be rendered and that have been rendered, respectively. As recited on page 7, paragraph [0073], when the forward buffer is 'low' as pointed by a rendering pointer 1030 shown in FIG 10, then the Kiraly information receiver and retransmitter device (IRRT) 1001 (shown in FIG 10) signals its chaincast source to send more data packets.

When the forward buffer is 'nearly empty,' as pointed by the rendering pointer 1030, then the IRRT 1001 signals a chaincast manager (CCM) to assign a different chaincast source for the IRRT 1001. Thus, any signaling for more data or change of data source is in response to the content level or the number of packets in the forward buffer. This is specifically recited in paragraph [0074], where:

[a]ccording to the present invention, if the number of data packets falls below the "buffer low" pointer 1050, IRRT 1001 will signal its chaincast source to send more data packets. If the number of data packets falls below the "near

empty" pointer 1040, IRRT 1001 will signal the CCM to assign another chaincast source for the IRRT 1001.

Paragraph [0074] of Kiraly further recites that:

[i]n response to the buffer content level falling below a pre-determined threshold value, the present invention re-routes communications between the user devices to provide better communication load sharing across the system. According to the present invention, the transmission buffers of the IRRTs are used to monitor the packet rates. Particularly, each IRRT monitors a number of unrendered data packets stored within its own transmission buffers. When the number of unrendered data packets falls below a threshold level, the IRRT signals its near-empty condition to the CCM such that a different upstream IRRT can be assigned to it. (Emphasis provided)

In summary, Kiraly teaches to request more data or a different data source in response to the buffer content level or number of packets stored in buffers. Kiraly merely monitors packet rates, and the buffer content level or number of packets stored in buffers.

In stark contrast, the present invention as recited in independent claim 1, and similarly recited in independent claim 11, amongst other patentable elements, requires (illustrative emphasis

provided):

quality test means for testing the information data retrieved and received by the information retrieval means and for supplying the activation information to the address retrieval means when the quality of the received information data is below a quality threshold value.

Quality test means for supplying the activation information to the address retrieval means when the quality of the received information data is below a quality threshold value are nowhere taught or suggested in Kiraly.

Rather, Kiraly merely teaches to monitor data rate and content of a buffer, where additional data or a different data source is requested in response to the buffer content being below certain levels. AAPI, BI and Madhavapeddi are cited in rejecting dependent claims to allegedly show other features and do not remedy the deficiencies in Kiraly.

In the Final Office Action, page 3, first full paragraph, it is alleged that paragraphs [0042], [0072] and [0073] of Kiraly teach quality test means for testing the information data retrieved and received for supplying the activation information to the

address retrieval means when the quality of the received information data is below a quality threshold value. As discussed above, Kiraly merely teaches to monitor the level or number of packets stored in the buffer. Further, it is respectfully submitted that the word "quality" does **NOT EXIST** in Kiraly. Kiraly is not concerned with quality of reception, but rather is concerned with the quantity of reception.

Further, the Final Office Action, page 4, first full paragraph, alleges that the features relied on are not recited in the claims. This allegation is strongly traversed. It is respectfully submitted that the so-called features relied on are the following recitations specifically recited in independent claim 1, and similarly recited in independent claim 11 (illustrative emphasis provided):

quality test means for testing the information data retrieved and received by the information retrieval means and for supplying the activation information to the address retrieval means when the quality of the received information data is below a quality threshold value.

Quality test means for supplying the activation information to

the address retrieval means, when the quality of the received information data is below a quality threshold value, is nowhere taught or suggested in Kiraly. Rather, Kiraly merely teaches to monitor data rate and content or number of packets in a buffer, where additional data or a different data source is requested in response to the buffer content being below certain levels.

Accordingly, it is respectfully submitted that independent claims 1 and 11 should be allowable, and allowance thereof is respectfully requested. In addition, it is respectfully submitted that claims 2-10 and 12-20 should also be allowed at least based on their dependence from independent claims 1 and 11.

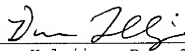
In addition, Appellant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Appellant reserves the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

CONCLUSION

Claims 1-20 are patentable over Kiraly.

Thus, the Examiner's rejections of claims 1-20 should be reversed.

Respectfully submitted,

By 
Dicran Halajian, Reg. 39,703
Attorney for Appellant
September 24, 2007

THORNE & HALAJIAN, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101

CLAIMS APPENDIX

1. An internet receiving arrangement for receiving information data stored in information servers connected to the internet, the arrangement having address retrieval means which, when activation information is present, are adapted to retrieve collective address information from an address server operatively connected to the address retrieval means of the internet, the collective address information identifying those information servers from which information data processable by the internet receiving arrangement can be retrieved, and having information retrieval means for retrieving the processable information data from an information server identified by the retrieved collective address information, and having quality test means for testing the information data retrieved and received by the information retrieval means and for supplying the activation information to the address retrieval means when the quality of the received information data is below a quality threshold value

2. An internet receiving arrangement as claimed in claim 1, in which timer means have been provided which at periodically occurring activation instants supply the activation information to the address retrieval means in order to retrieve the collective address information.

3. An internet receiving arrangement as claimed in claim 1, in which entry means for the manual entry of the address information of a further information server have been provided from which information data processable by the internet receiving arrangement can be retrieved.

4. An internet receiving arrangement as claimed in claim 1, in which the address retrieval means, when the activation information is present, are adapted to retrieve transcoding address information from the address server, which transcoding address information identifies a transcoding server which is adapted to transcode information data stored in an information server but not processable by the internet receiving arrangement into information

data processable by the internet receiving arrangement, and in which the information retrieval means are adapted to retrieve the information data processable by the internet receiving arrangement from the transcoding server identified by the transcoding address information.

5. An internet receiving arrangement as claimed in claim 1, in which noise generator means have been provided, which noise generator means are adapted to supply noise information to information data processing means of the internet receiving arrangement during the time that the activation information is present.

6. An internet receiving arrangement as claimed in claim 1, in which the address retrieval means, when activation information is present, are adapted to retrieve at least two items of collective address information from at least two address servers connected to the internet.

7. An internet receiving arrangement as claimed in claim 1, which internet receiving arrangement is formed by an internet television set adapted to receive and process audio/video data in the form of information data.

8. The internet receiving arrangement as claimed in claim 1, wherein the information data is audio data.

9. The internet receiving arrangement as claimed in claim 1, wherein the quality is a measure of audio quality data.

10. The internet receiving arrangement as claimed in claim 1, wherein the information servers are internet radio stations.

11. An internet receiving arrangement for receiving information data from information servers that are connected to the internet comprising:

an address retrieval device to selectively retrieve collective address information from an address server, the address retrieval

device being operatively connected to the address server only through the internet, where an activation information device is employed to determine if address information is retrieved;

an information retrieval device configured to retrieve information data from the information servers that are identified by the retrieved collective address information, wherein the collective address information identifies those information servers from which information data is to be retrieved; and

a quality test device arranged to test the information data retrieved and received by the information retrieval device and for supplying the activation information to the address retrieval device if the quality of the received information data is below a quality threshold value.

12. The internet receiving arrangement as defined in claim 11, wherein a timer is provided to supply the activation information to the address retrieval device in order to retrieve the collective address information.

13. The internet receiving arrangement defined in claim 11, wherein an entry device is provided for entry of the address information of a further information server from information data can be retrieved.

14. The internet receiving arrangement defined in claim 11, wherein the address retrieval device is adapted to retrieve transcoding address information from the address server, which transcoding address information identifies a transcoding server adapted to transcode information data from an information server but not processable by the internet receiving arrangement into information data processable by the internet receiving arrangement, and in which the information retrieval device is adapted to retrieve the information data processable by the internet receiving arrangement from the transcoding server identified by the transcoding address information.

15. The internet receiving arrangement defined in claim 11, wherein the noise generator is adapted to supply noise information

to information data processing means of the internet receiving arrangement during the time that the activation information is present.

16. The internet receiving arrangement defined in claim 11, wherein the address retrieval device is adapted to retrieve at least two items of collective address information from at least two address servers connected to the internet.

17. The internet receiving arrangement defined in claim 11, wherein the internet receiving arrangement includes an internet television adapted to receive and process audio/video data in the form of information data.

18. The internet receiving arrangement defined in claim 11, wherein the information data is audio data.

19. The internet receiving arrangement defined in claim 11, wherein the quality is a measure of audio quality data.

20. The internet receiving arrangement defined in claim 11,
wherein the information servers are internet radio stations.

EVIDENCE APPENDIX

None

Patent

Serial No. 09/954,654

Appeal Brief in Reply to Final Office Action of May 2, 2007,
and Advisory Action of June 26, 2007

RELATED PROCEEDINGS APPENDIX

None